IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(*Special Original Jurisdiction*)

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MONDAY, THE TWENTY SEVENTH DAY OF FEBRUARY

TWO THOUSAND AND SIX

P R E S E N T

THE HON'BLE SRI JUSTICE V.ESWARAIAH

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WP.No.3672 OF 2006

Between**:**

Gamini Krishna Rao & Ors. … Petitioners

Versus

The Commissioner,

Municipal Corporation of Kakinada,

Kakinada, East Godavari district. … Respondent

Counsel for the Petitioner: M/s. MVS. Suresh Kumar

Counsel for the Respondent: Mr.S.Nageswara Reddy

O R D E R :

All the petitioners are allegedly owners of houses situated at Main Road, Kakinada. It appears in connection with widening of the said road from existing 25' to 50' width, the officials of the respondent – Corporation conducted survey and marked certain portion/s of the petitioners' properties, which are likely to be affected by the road widening. The petitioners apprehend that the respondent Corporation may demolish and forcibly dispossess the petitioners without due process of law. Therefore, placing reliance on the judgment of the Division Bench of this Court in **P.Lakshmana v. Executive Officer** and unreported judgments delivered by me in W.P.No.26547 of 2005, dated 13.12.2005 and WP.No.358 of 2006 dated 05-1-2006 the petitioners filed the instant writ petition. They seek, inter alia, a direction to the respondent to follow due process of law before causing any damage to the petitioners' properties.

After getting instructions from his client, the learned Standing Counsel for Kakinada Municipal Corporation submits that only survey was conducted, and the Corporation

is trying to negotiate with the owners of the properties to take consent before implementing the road widening programme. He also submits that if any of the petitioners is not willing to give consent, the land will be acquired by due process of law. The same is recorded.

The Writ Petition is accordingly disposed of observing that if the petitioners are not willing to give consent for acquiring under section 146 of Hyderabad Municipal Corporation Act, it shall be open to the respondent Corporation to acquire the properties by resorting to the procedure under Section 147 of the Hyderabad Municipal Corporations Act, 1955, and till then, the petitioners cannot be deprived of their right to enjoy the properties, nor the Corporation can demolish the petitioners' houses forcibly. No costs.

FEBRUARY 27th, 2005. ----------

l s L. V. ESWARAIAH, J.